

**House File 328 - Reprinted**

HOUSE FILE 328  
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 79)

(As Amended and Passed by the House March 2, 2011)

**A BILL FOR**

1 An Act relating to matters under the purview of the division  
2 of banking of the department of commerce, and including  
3 effective date provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 524.211, subsection 3, Code 2011, is  
2 amended to read as follows:

3 3. The superintendent, general counsel, examiners, and  
4 other employees of the banking division, who have credit  
5 relations with a person or entity licensed or registered  
6 pursuant to chapter 535B, 535D, or 536C, are prohibited from  
7 participating in decisions, oversight, and official review  
8 of matters concerning the regulation of the licensee or  
9 registrant.

10 Sec. 2. Section 524.212, subsection 2, Code 2011, is amended  
11 to read as follows:

12 2. The superintendent may receive documents, materials,  
13 or other information, including otherwise confidential and  
14 privileged documents, materials, or other information, from  
15 other local, state, federal, and international regulatory  
16 agencies, the conference of state bank supervisors and its  
17 affiliates or subsidiaries, the American association of  
18 mortgage regulators and its affiliates or subsidiaries, and  
19 the national association of consumer credit administrators  
20 and its affiliates or subsidiaries, and shall maintain as  
21 confidential and privileged any such document, material, or  
22 other information received with notice or the understanding  
23 that it is confidential or privileged under the laws of the  
24 jurisdiction that is the source of the document, material, or  
25 other information. With respect to documents, materials, or  
26 other information that is shared or stored electronically,  
27 the superintendent is authorized to take any necessary steps  
28 to ensure the division's information technology systems  
29 comply with the information technology security requirements  
30 established by any of the regulatory agencies or associations  
31 of state regulatory agencies described in this section.

32 Sec. 3. Section 524.904, subsection 5, Code 2011, is amended  
33 to read as follows:

34 5. a. A state bank may grant loans and extensions of credit  
35 to a ~~corporate~~ borrowing group in an amount not to exceed

1 twenty-five percent of the state bank's aggregate capital if  
 2 all loans and extensions of credit to any one borrower within  
 3 a ~~corporate~~ borrowing group conform to subsection 2 or 3, and  
 4 the financial strength, assets, guarantee, or endorsement of  
 5 any one ~~corporate~~ borrowing group member is not relied upon  
 6 as a basis for loans and extensions of credit to any other  
 7 ~~corporate~~ borrowing group member. A state bank may grant loans  
 8 and extensions of credit to a ~~corporate~~ borrowing group in an  
 9 amount not to exceed thirty-five percent of aggregate capital  
 10 if all loans and extensions of credit to any one borrower  
 11 within a ~~corporate~~ borrowing group conform to subsection 2,  
 12 3, or 4, and the financial strength, assets, guarantee, or  
 13 endorsement of any one ~~corporate~~ borrowing group member is not  
 14 relied upon as a basis for loans and extensions of credit to  
 15 any other ~~corporate~~ borrowing group member. ~~A corporate group~~  
 16 ~~includes a person and all corporations in which the person~~  
 17 ~~owns or controls fifty percent or more of the shares entitled~~  
 18 ~~to vote.~~ While not to be construed as an endorsement of the  
 19 quality of any loan or extension of credit, the superintendent  
 20 may authorize a state bank to grant loans and extensions of  
 21 credit to a borrowing group in an amount not to exceed fifty  
 22 percent of aggregate capital if all loans and extensions of  
 23 credit to any one borrower within a borrowing group conform  
 24 to subsection 2 or 3, and the financial strength, assets,  
 25 guarantee, or endorsement of any one borrowing group member is  
 26 not relied upon as a basis for loans and extensions of credit  
 27 to any other borrowing group member.

28 b. For the purposes of this subsection, a borrowing  
 29 group includes a person and any legal entity, including but  
 30 not limited to corporations, limited liability companies,  
 31 partnerships, trusts, and associations where the following  
 32 exist:

33 (1) The interests of a group of more than one borrower,  
 34 or any combination of the members of the group, are so  
 35 interrelated that they should be considered a unit for the

1 purpose of applying the lending limit limitations of this  
2 section. For the purposes of this subparagraph, interrelated  
3 borrowers include but are not limited to borrowers having  
4 separate operations that cannot exist without the other,  
5 borrowers sharing collateral, borrowers commingling assets,  
6 borrowers sharing operational proceeds, or borrowers for whom  
7 there is a common source of repayment for the borrowers' loans.

8 (2) One or more persons owns or controls fifty percent or  
9 more of the voting securities or membership interests of the  
10 borrowing entity or a member of the group.

11 (3) One or more persons controls, in any manner, the  
12 election of a majority of the directors, managers, trustees,  
13 or other persons exercising similar functions of the borrowing  
14 entity or a member of the group.

15 (4) One or more persons has the power to vote fifty percent  
16 or more of any class of voting securities or membership  
17 interests of the borrowing entity or a member of the group.

18 c. To demonstrate compliance with this subsection, a  
19 bank shall maintain in its files, at a minimum, all of the  
20 following:

21 (1) Documentation demonstrating the current ownership of  
22 the borrowing entity.

23 (2) Documentation identifying the persons who have voting  
24 rights in the borrowing entity.

25 (3) Documentation identifying the board of directors and  
26 senior management of the borrowing entity.

27 (4) The bank's assessment of the borrowing entity's means  
28 of servicing the loan or extension of credit, including  
29 specific reasons in support of that assessment. The assessment  
30 shall include an analysis of the borrowing entity's financial  
31 history, its present and projected economic and financial  
32 performance, and the significance of any financial support  
33 provided to the borrowing entity by members of the borrowing  
34 group and third parties.

35 Sec. 4. Section 524.904, subsection 7, Code 2011, is amended

1 by adding the following new paragraph:

2 NEW PARAGRAPH. *m.* A renewal or restructuring of a loan as  
3 a new loan or extension of credit following the exercise by  
4 a state bank of reasonable efforts, consistent with safe and  
5 sound banking practices, to bring the loan into conformance  
6 with the lending limit, unless new funds are advanced by the  
7 bank to the borrower or unless a new borrower replaces the  
8 original borrower or unless the superintendent determines that  
9 the renewal or restructuring was undertaken as a means to evade  
10 the bank's lending limit.

11 Sec. 5. Section 524.1201, subsection 4, Code 2011, is  
12 amended by striking the subsection.

13 Sec. 6. Section 535B.4, Code 2011, is amended by adding the  
14 following new subsection:

15 NEW SUBSECTION. 8A. A licensee may not establish branch  
16 locations outside of the United States.

17 Sec. 7. Section 535B.6, Code 2011, is amended to read as  
18 follows:

19 **535B.6 Licensing of ~~foreign corporation~~ certain corporations.**

20 1. An applicant that is a ~~foreign corporation~~ incorporated  
21 under the laws of another state in the United States must be  
22 authorized to do business in this state. ~~A foreign corporation~~  
23 Such a corporation shall file with the license application both  
24 of the following:

25 ~~1-~~ a. An irrevocable consent, duly acknowledged, that  
26 suits and actions may be commenced against that licensee in the  
27 courts of this state by service of process in the usual manner  
28 provided for by the statutes and court rules of this state.

29 ~~2-~~ b. Proof of authorization to do business in this state.

30 2. Businesses that are incorporated outside of the United  
31 States are not eligible for a license.

32 Sec. 8. Section 535D.4, subsection 1, Code 2011, is amended  
33 to read as follows:

34 1. On or after January 1, 2010, an individual shall not  
35 engage in the business of a mortgage loan originator with

1 respect to any dwelling or residential real estate located in  
2 this state without first obtaining and maintaining annually  
3 a license under this chapter. Each licensed mortgage loan  
4 originator must register with and maintain a valid unique  
5 identifier issued by the nationwide mortgage licensing system  
6 and registry.

7 Sec. 9. NEW SECTION. 535D.23 **Reports of condition required**  
8 **— exceptions.**

9 Each mortgage loan originator licensee shall submit  
10 reports of condition to the nationwide mortgage licensing  
11 system and registry unless the mortgage loan originator's  
12 activity is included in a report submitted by the mortgage  
13 loan originator's employer in accordance with section 535B.11,  
14 subsection 3, section 535B.18, or section 536A.14, subsection  
15 2. The reports shall be in such form and shall contain such  
16 information as the nationwide mortgage licensing system and  
17 registry may require.

18 Sec. 10. **EFFECTIVE UPON ENACTMENT.** The section of this  
19 Act amending section 524.904, subsection 7, takes effect upon  
20 enactment.